APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/717,929	11/21/2000	Nripjeet Singh Josan	05MV1121	9785

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EXAMINER
BADERMAN, SCOTT T

ART UNIT	PAPER NUMBER
2113	

DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/717,929	JOSAN ET AL.
	Examiner	Art Unit
	Scott T Baderman	2113

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>21 November 2000</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-14</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-14</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>21 November 2000</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>5</u>.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____ .

DETAILED ACTION

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Vert et al.

(2001/0008019).

As in claims 1 and 8, Vert discloses a computer system (and computer-implemented

method) including at least two server nodes, wherein each execute clustered server software, and

wherein the computer system provides a transition from a first one of the server nodes to a

second one of the server nodes (page 1: paragraph 4, page 3: paragraphs 25and 26). Vert also

discloses that in response to a request for the transition, a thread is initiated for effecting the

transition from the first server node to the second server node (page: paragraph 4). Vert also

discloses determining if a shared resource is owned by the second node, and if not, calling a

driver to enable functionality of the transition, in which the transition sets up the shared resource

access to the second server node. That is, Vert discloses that a group (collection of resources) can

be shared by other systems in the cluster (upon failover), and further discloses that a failover

manager is responsible for deciding which systems in the cluster should "own" which groups

(resources) (page 3: paragraph 29, page 4: paragraph 30). Thus, when the system in the cluster is

selected to "own" the group, access to the group is set up for that system in the cluster.

As in claims 2 and 9, Vert discloses counting the number of resources that have

transitioned. That is, Vert clearly discloses that one of the benefits of the cluster system is that

workloads can be balanced among different servers in the cluster to improve performance (page

1: paragraph 3). Based on this teaching and the failover teaching above, it is implied that if a

system in the cluster that takes over a group (collection of resources) from a failed system is

overloaded, then that system can balance its workload among different servers in the cluster. In

order to determine the workload of the system, the resources that it is taking over (transitioned)

must be counted.

As in claims 3 and 10, Vert discloses wherein the transition occurs when the first server

has failed and the resource is brought online on the second server (i.e., failover) (page 3:

paragraph 29, page 4: paragraphs 30, 37 and 38, page 5: paragraphs 41-43).

As in claims 4 and 11, Vert discloses wherein the transition occurs when a server

becomes active following a failure and the resource is brought online on the first server and

offline on the second server (i.e., failback) (page 5: paragraphs 41-44).

As in claims 5 and 12, Vert discloses wherein the transition occurs in response to a selection by a user (page 1: paragraph 4, page 5: paragraph 42).

As in claims 6 and 13, Vert discloses wherein the transition occurs in response to the user (administrator) selection to that the resource is brought online on the second server (i.e., failover) (page 1: paragraph 4, page 3: paragraph 29, page 4: paragraphs 30, 37 and 38, page 5: paragraphs 41-43).

As in claims 7 and 14, Vert discloses wherein the transition occurs in response to the user (administrator) selection so that the resource is brought online on the first server and offline on the second server (i.e., failback) (page 5: paragraphs 41-44).

Conclusion

3.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

See Form PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott T Baderman whose telephone number is (703) 305-4644. The examiner can normally be reached on Monday-Friday, 6:45 AM-4:15 PM, first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Robert Beausoliel can be reached on (703) 305-9713. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Scott T Baderman
Primary Examiner
Art Unit 2113

STB